

D. PUBLIC INTEREST FAVORS A GRANT FOR STAY

16. Public Safety entities are legislated the responsibility of providing prompt rendition and delivery of medical and emergency services to the public. A reliable telecommunications infrastructure is paramount for the provision of these services.

17. Delaware's unauthorized inter-regional signal emissions will cause harmful interference to the current and/or future 821-824/866-869 MHz Region-20 telecommunications infrastructure. As a result, the safety of the public is in serious compromise and jeopardy.

18. Region-20 exists for the sole purpose of promoting the safe welfare of public good. On behalf of the citizens of Region-20, the public interest clearly favors the Commission grant of this **MOTION**.

III.

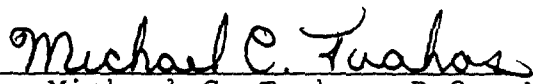
CONCLUSION

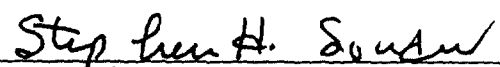
19. Pursuant to 47 CFR 1.41, 1.42, 1.44(e), 1.45(d), 1.298(a), this Committee hereby submits this **MOTION**.

20. Region-20 has fulfilled the requirements that this **MOTION** a) will prevail on the merits, b) that petitioner will suffer irreparable harm if a stay is not granted, c) that the parties subject to the stay will not be harmed if a stay is granted, and d) the public interest favors a grant for stay.

21. Prompt Commission adoption of this **MOTION** is appreciated by this Committee and Region-20, and is in the public interest.

Respectfully submitted,


Dr. Michael C. Trahos, D.O., NCE, CET
Chairman - Region-20 Legislative/
Regulatory Affairs Committee

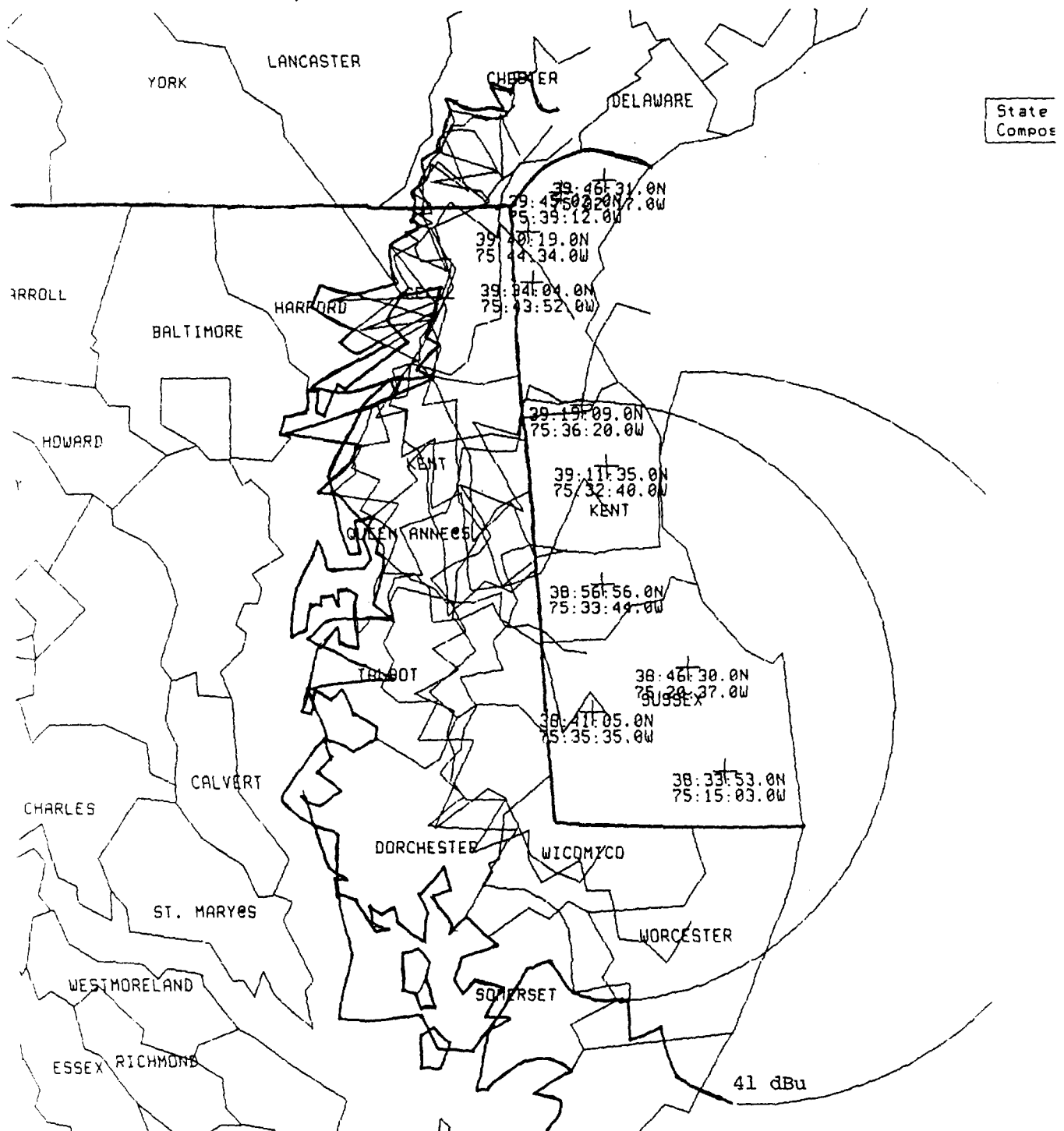

Mr. Stephen H. Souder
Chairman - Region-20 Regional Plan
Review Committee

IV.

FOOTNOTES

- 1/ REPORT AND ORDER, General Docket No. 87-112, FCC 87-359, November 24, 1987, Paragraph 4.
- 2/ WASHINGTON, D.C. METROPOLITAN AREA - REGION 20, General Docket No. 90-7, DA 90-28, January 17, 1990.
- 3/ ORDER, General Docket No. 89-573, Philadelphia Metropolitan Area Public Safety Plan, December 16, 1993, Region-28 Plan, Appendix F-1, Page 38.
- 4/ LETTER, Steve Souder, Chairman - Region-20 RPRC to Richard Reynolds, FCC Region-28 Plan Update Committee, July 31, 1996.
- 5/ LETTER, Richard R. Reynolds, Chairman - Region-28 Plan Update Committee to Steve Souder, Chairman - Region-20, August 29, 1996, Page 2, Answer #1.
- 6/ Ibid., Page 1, Topic #1.
- 7/ Ibid., Appendix 7 & 8.
- 8/ ATTACHMENT 1
- 9/ Ibid., Footnote 6.
- 10/ ATTACHMENT 2

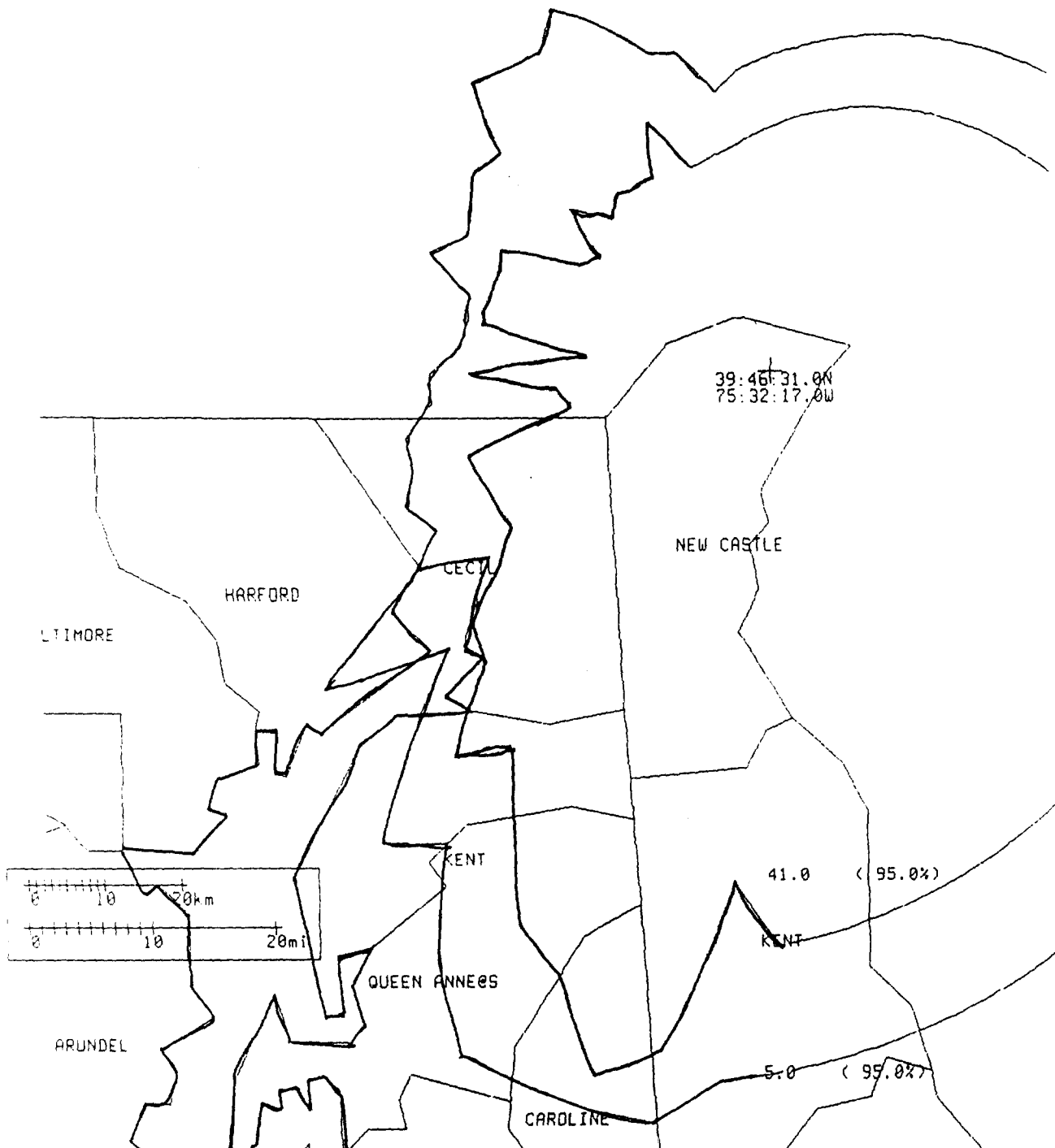
ATTACHMENT 1 (A)



STATE OF DELAWARE

41 dBu F(95,95) MULTISITE COMPOSITE

ATTACHMENT 1 (B)

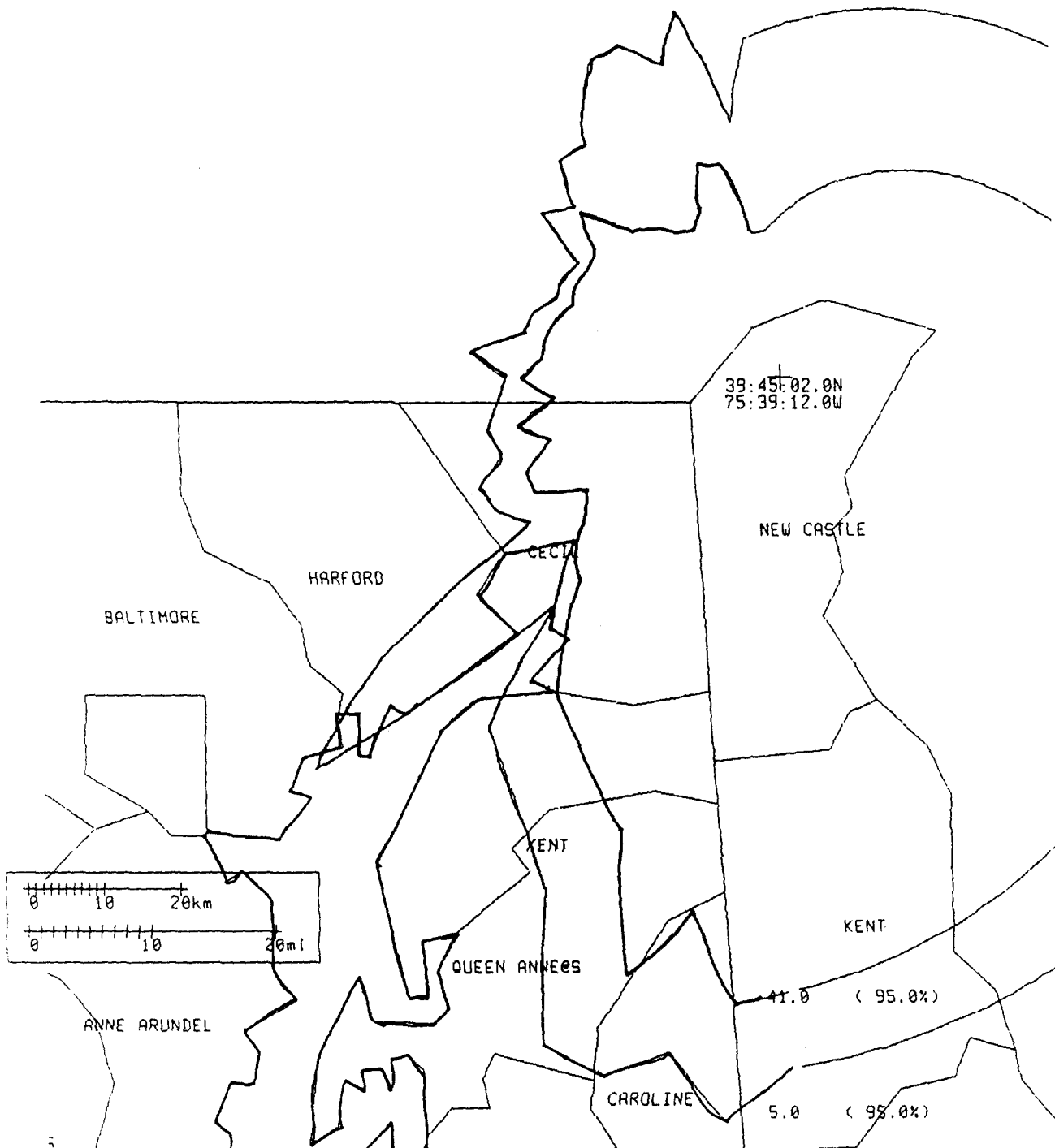


STATE OF DELAWARE

TALLY HIGHWAY YARD, WILMINGTON, DELAWARE

AMSL 71m, AAT 98m, HT 71m, ERP 684W

ATTACHMENT 1 (C)

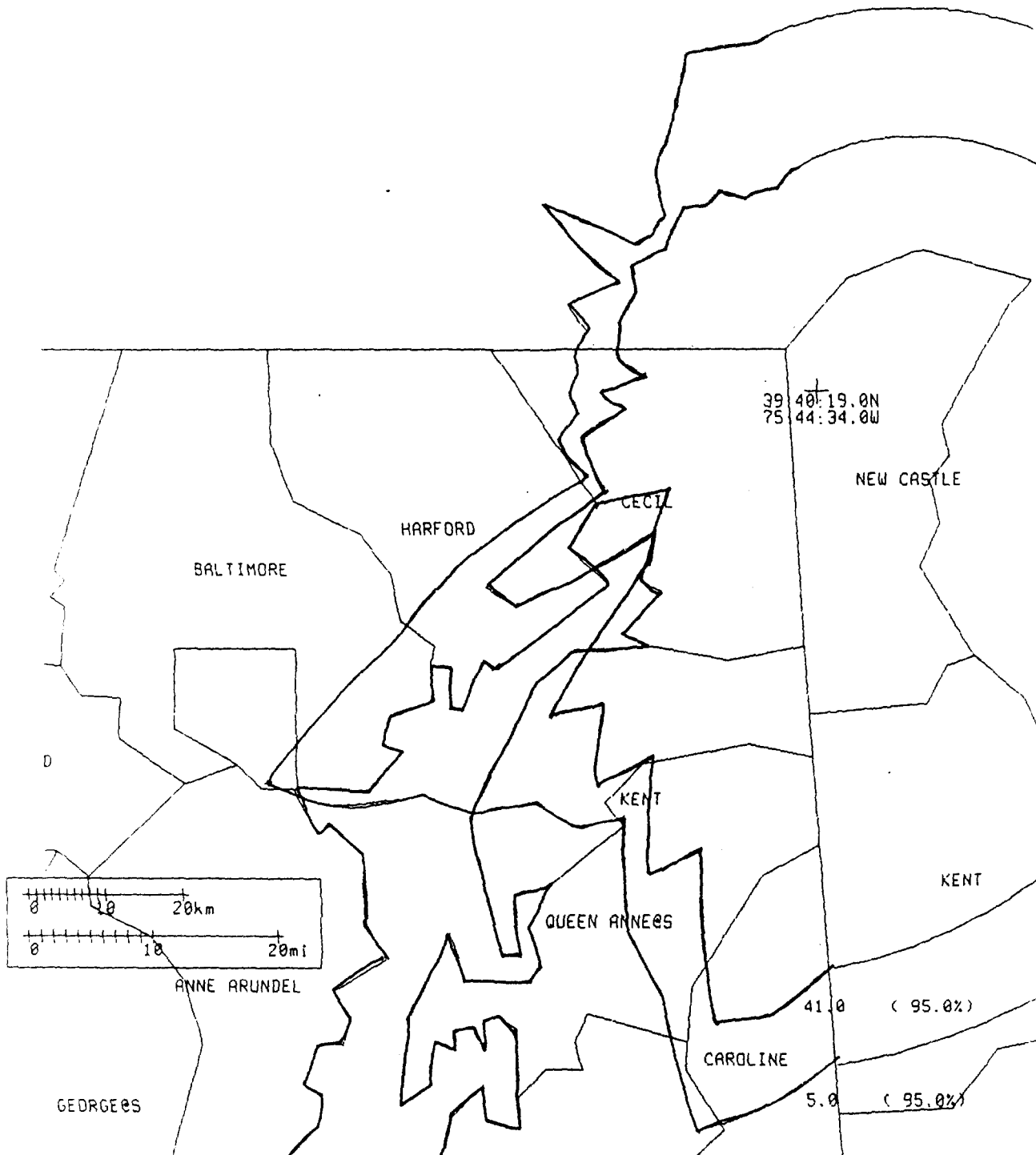


STATE OF DELAWARE

BISSELL HOSPITAL, WILMINGTON, DELAWARE

AMSL 30m, AAT 82m, HT 82m, ERP 684W

ATTACHMENT 1 (D)

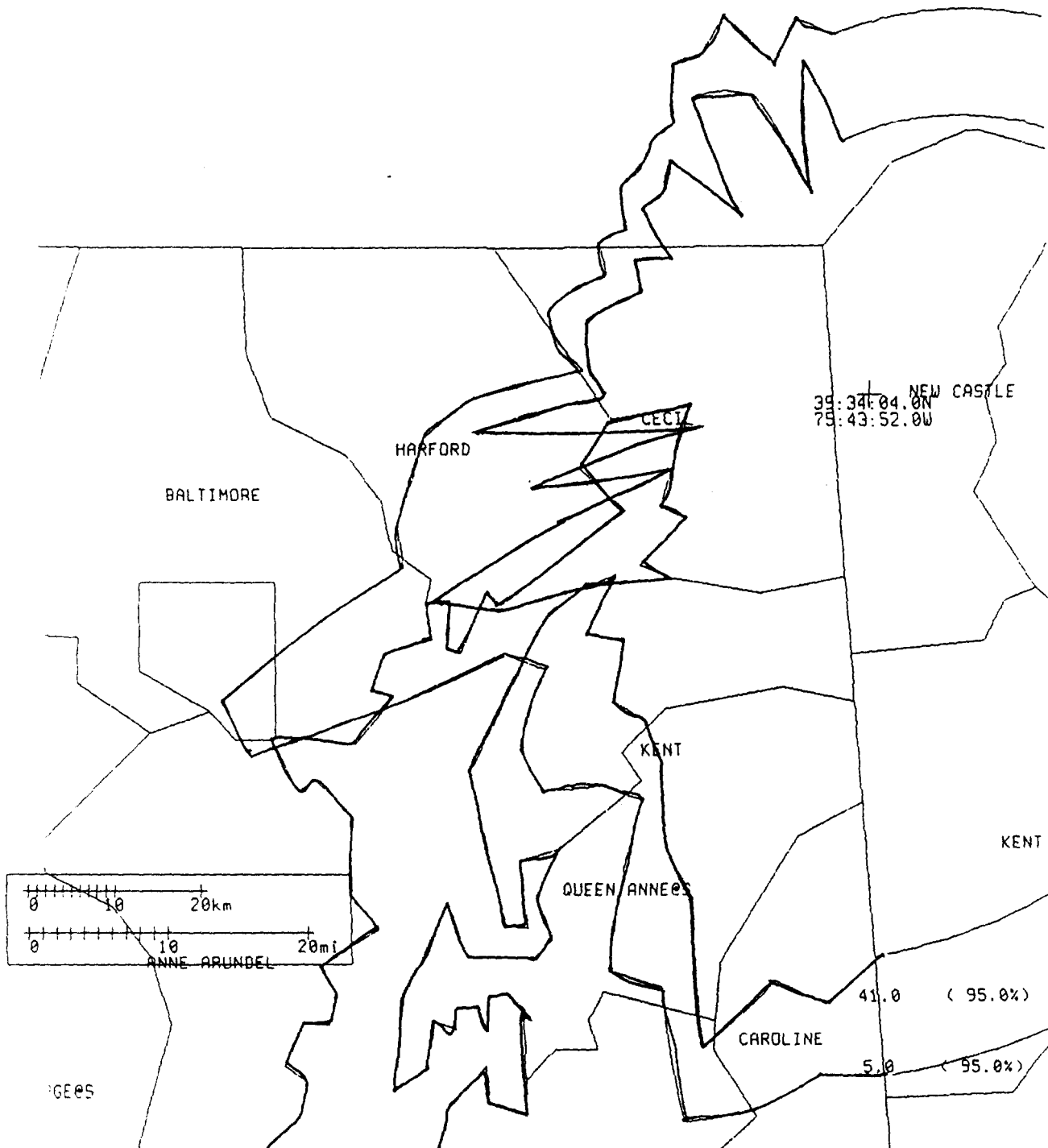


STATE OF DELAWARE

UNIVERSITY OF DELAWARE, NEWARK, DELAWARE

AMSL 30m, AAT 64m, HT 90m, ERP 715W

ATTACHMENT 1 (E)

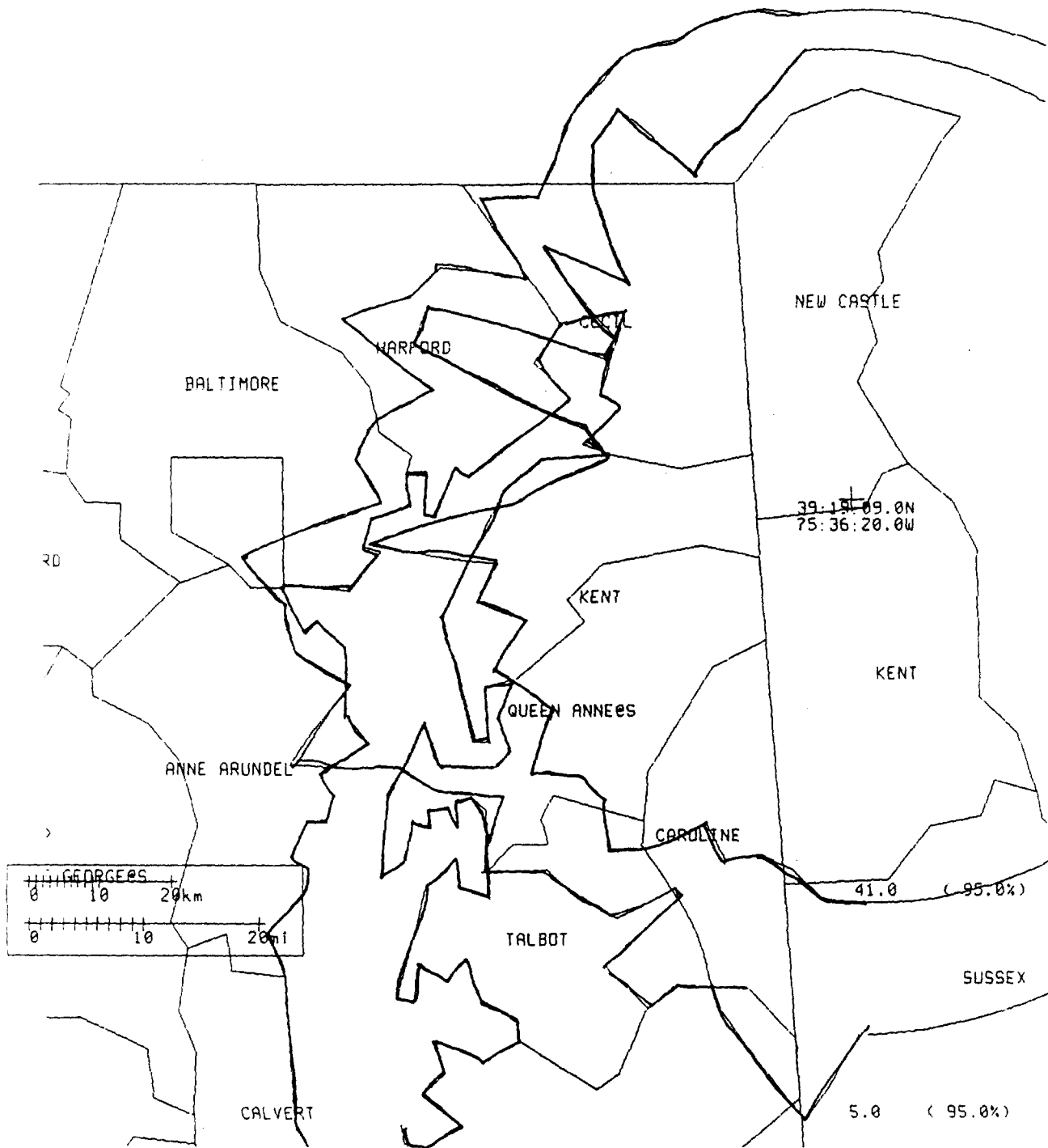


STATE OF DELAWARE

LUMS POND STATE PARK, CHESAPEAKE CITY, DELAWARE

AMSL 12m, AAT 71m, HT 70m, ERP 430W

ATTACHMENT 1 (F)

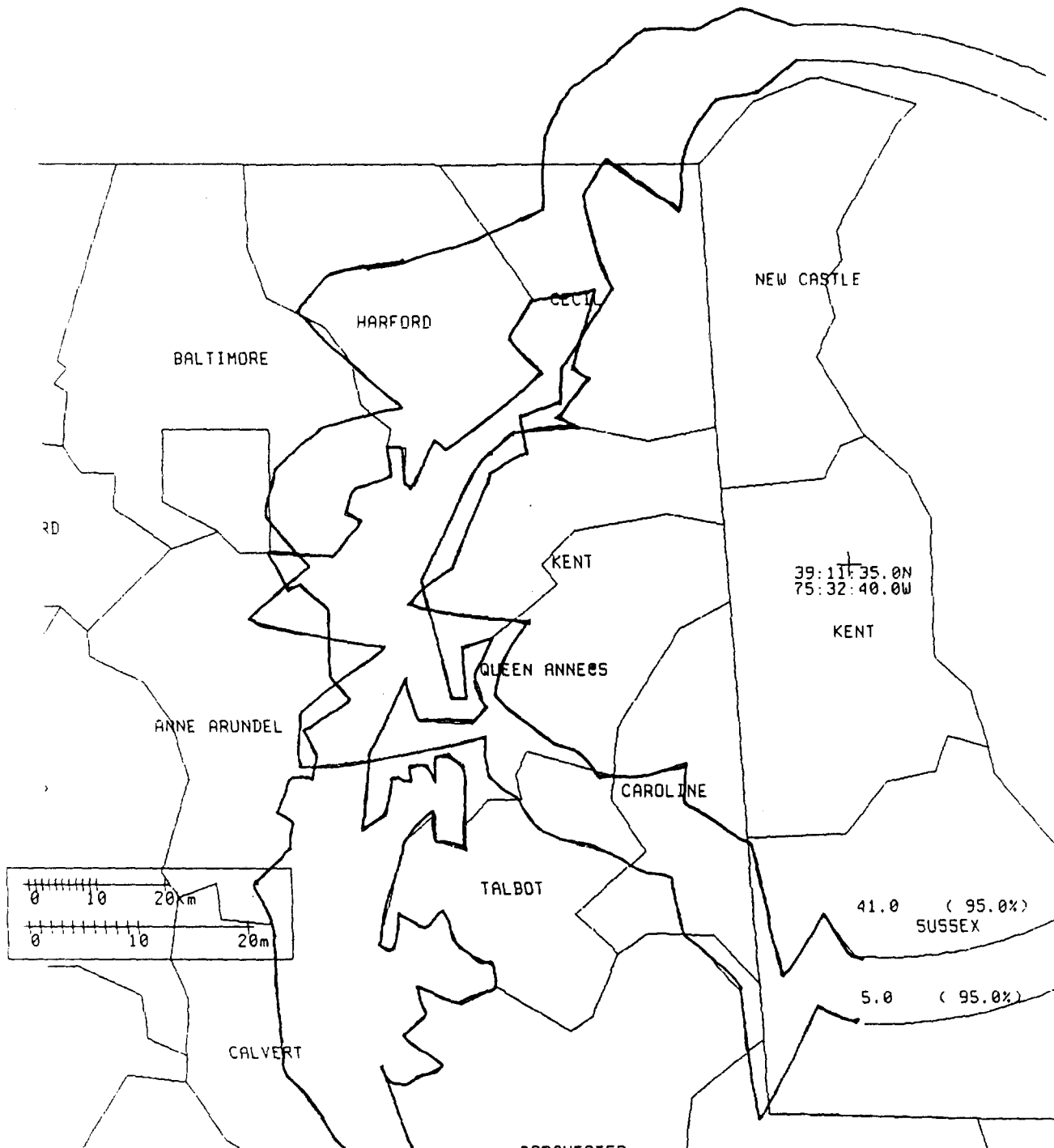


STATE OF DELAWARE

ROUTE 488, SMYRNA, DELAWARE

AMSL 9m, AAT 77m, HT 90m, ERP 398W

ATTACHMENT 1 (G)

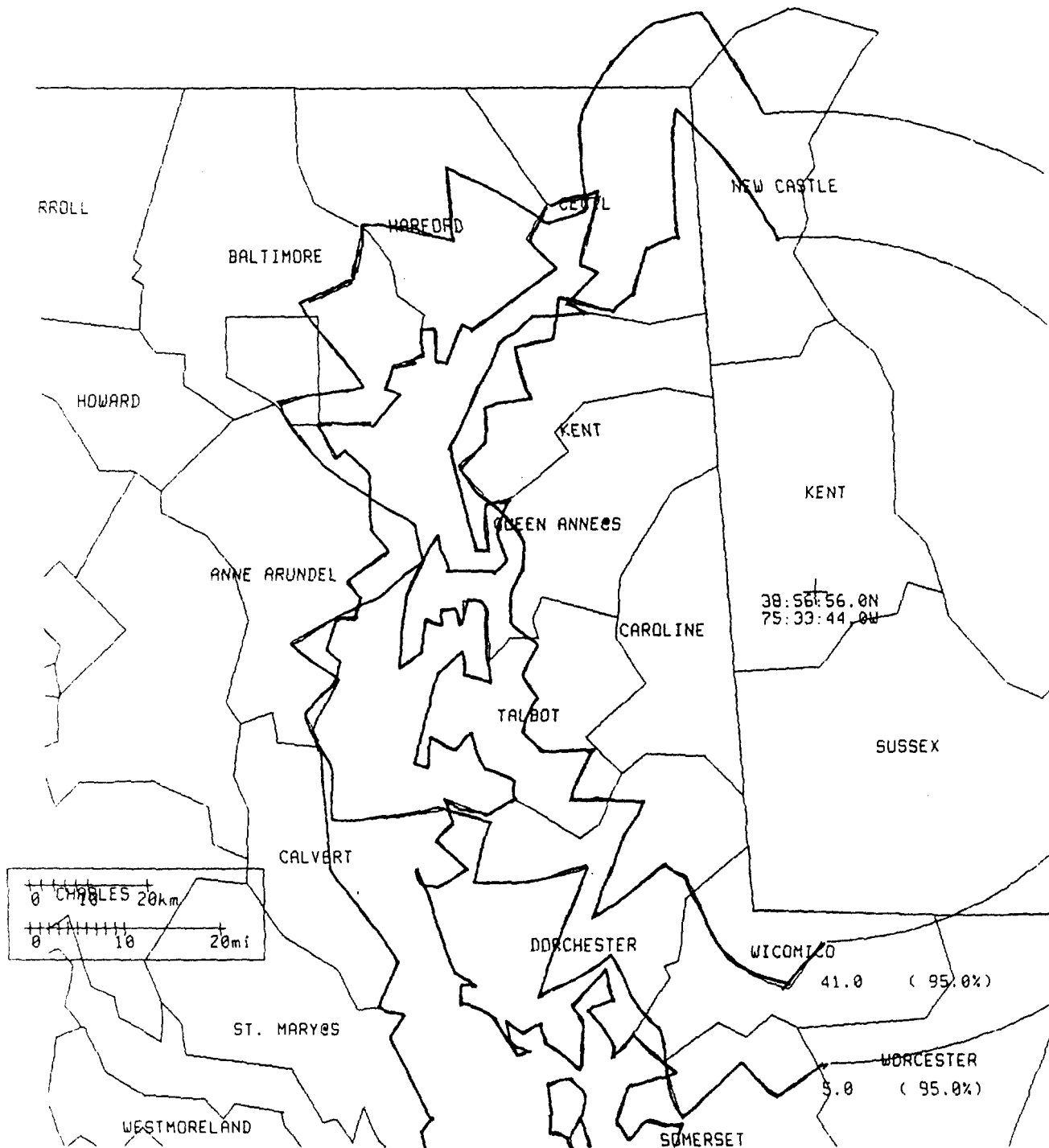


STATE OF DELAWARE

DELAWARE STATE POLICE HEADQUARTERS, DOVER, DELAWARE

AMSL 5m, AAT 92m, HT 98m, ERP 356W

ATTACHMENT 1 (H)

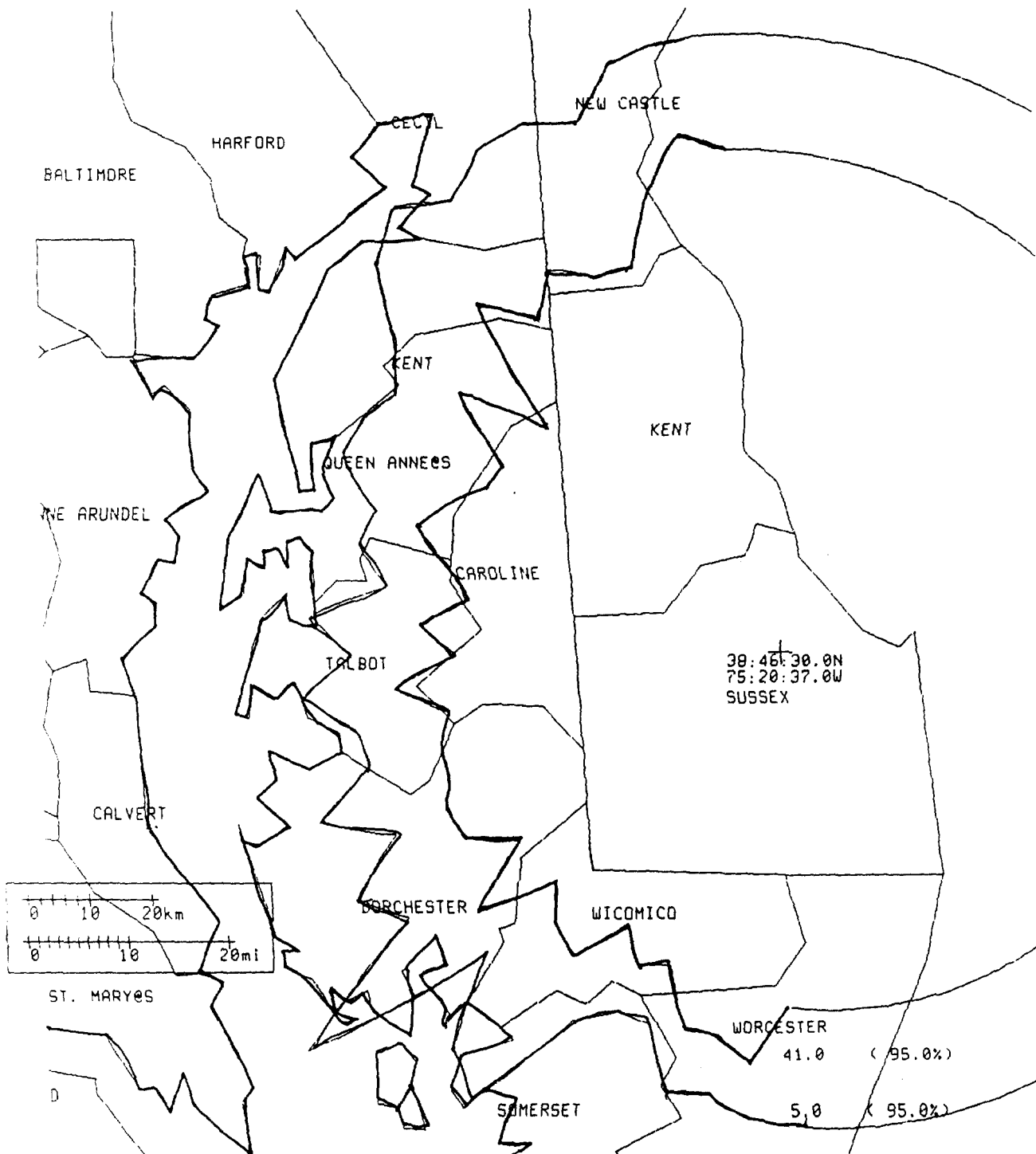


STATE OF DELAWARE

KILLEN STATE PARK, FELTON, DELAWARE

AMSL 15m, AAT 144m, HT 143m, ERP 246W

ATTACHMENT 1 (I)

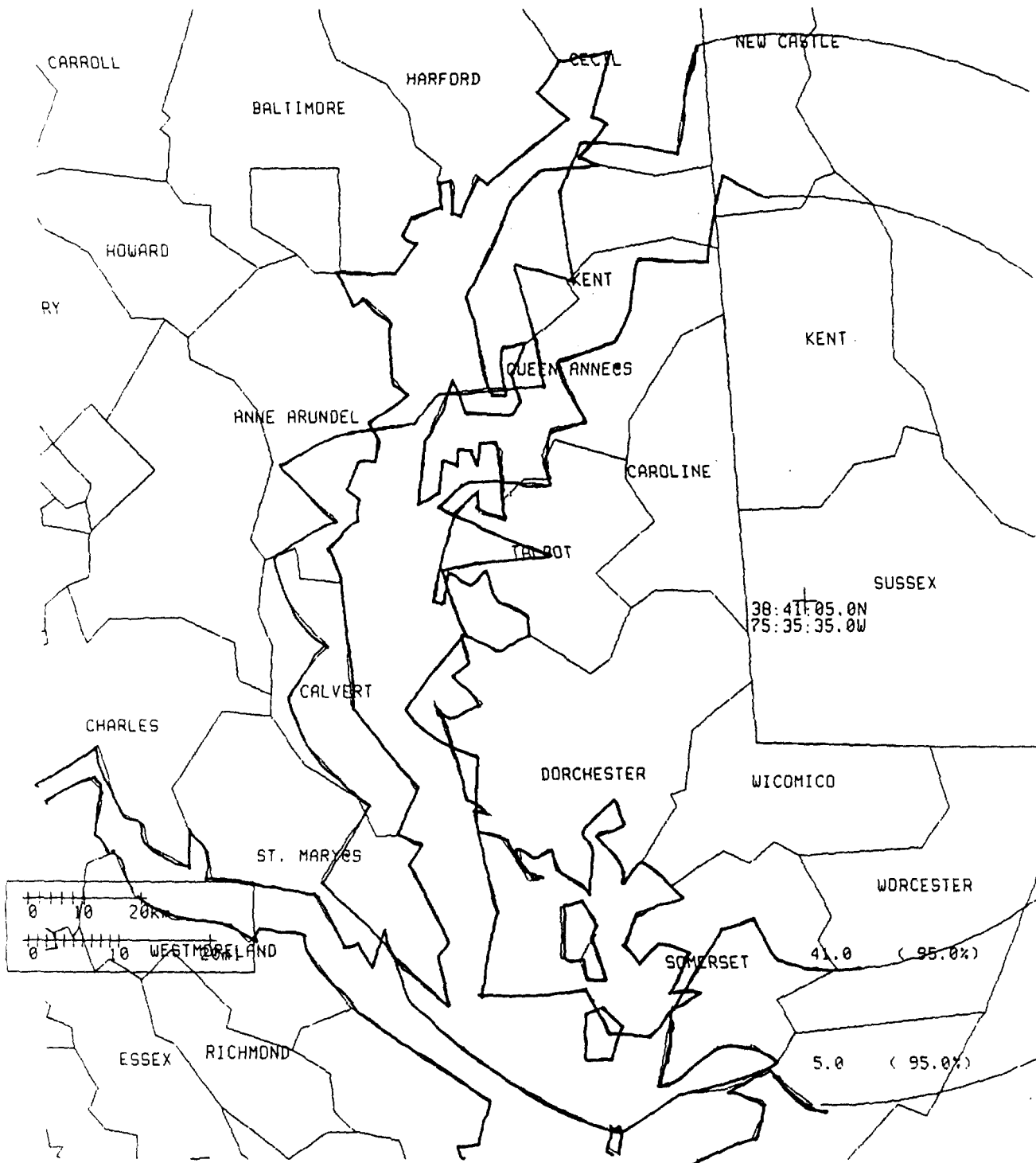


STATE OF DELAWARE

ROUTE 30, MILTON, DELAWARE

AMSL.6m, AAT 133m, HT 138m, ERP 521W

ATTACHMENT 1 (J)

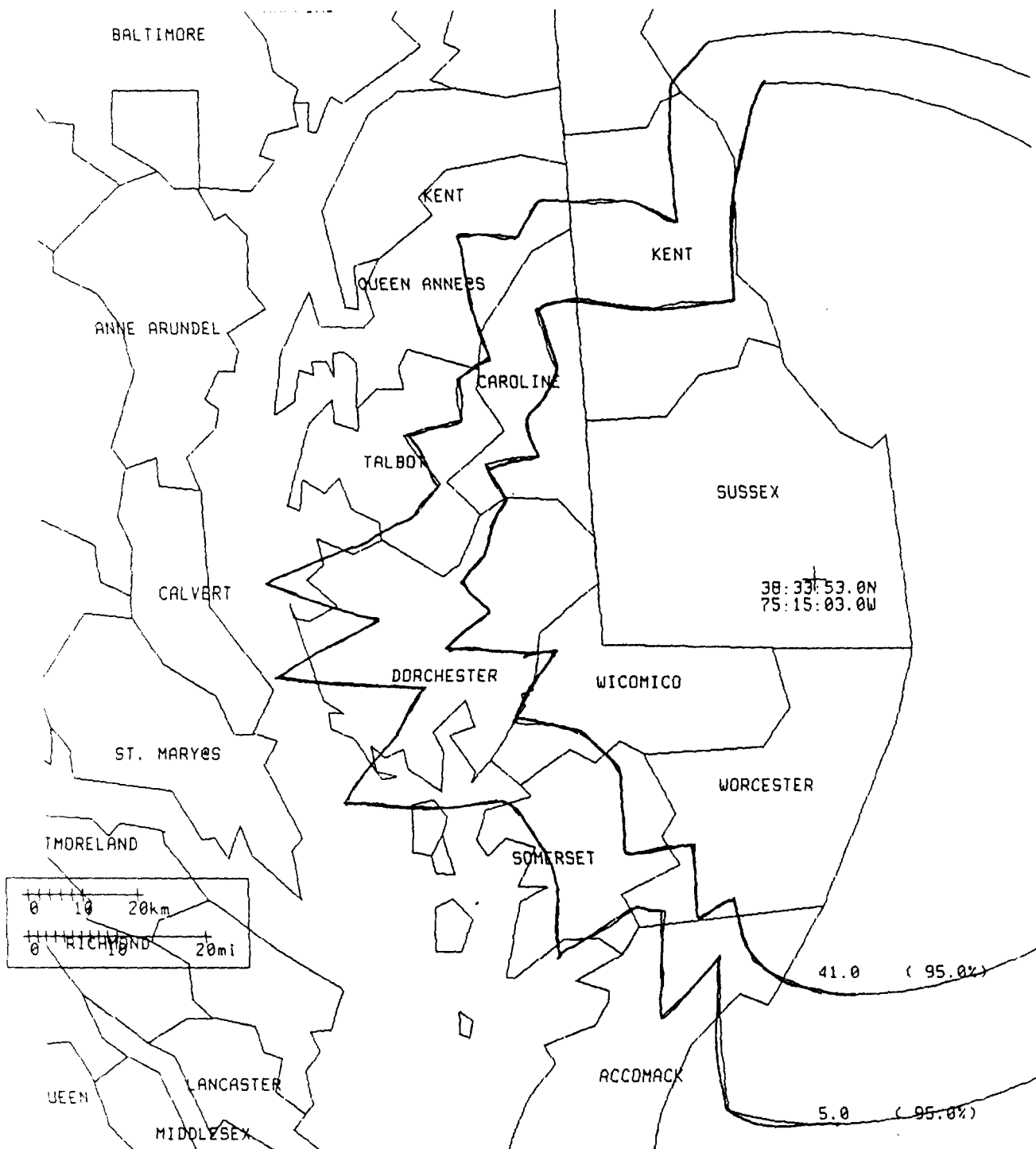


STATE OF DELAWARE

SEAFORD HIGHWAY YARD, SEAFORD, DELAWARE

AMSL 6m, AAT 131m, HT 143m, ERP 503W

ATTACHMENT 1 (K)

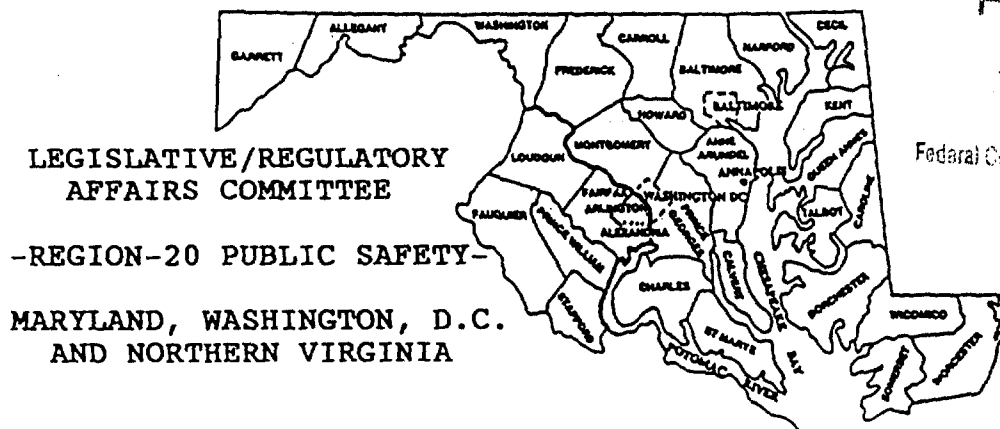


STATE OF DELAWARE

DAGSBORO FIRE TOWER, DAGSBORO, DELAWARE

AMSL 6m, AAT 148m, HT 152, ERP 482W

EXHIBIT B



RECEIVED

DEC 27 1996

Federal Communications Commission
Office of Secretary

LEGISLATIVE/REGULATORY
AFFAIRS COMMITTEE
-REGION-20 PUBLIC SAFETY-
MARYLAND, WASHINGTON, D.C.
AND NORTHERN VIRGINIA

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	GN Docket No. 89-573
)	File No. 9505503540 (WPIQ-290)
State of Delaware)	File No. 9505503541 (WPIQ-294)
Station License Authorizations)	File No. 9512D010528 (WPIZ-596)

REPLY COMMENTS FILED IN RESPONSE TO
OPPOSITION TO MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by:

Region-20 Public Safety Review Committee
Legislative/Regulatory Affairs Committee
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman
4600 King Street, Suite 4E
Alexandria, Virginia 22302-1213

December 27, 1996



PRESIDENT (CY '94)
ALEXANDRIA MEDICAL SOCIETY, INC.

CLINICAL INSTRUCTOR
GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE

MICHAEL C. TRAHOS, D.O.
GENERAL MEDICINE/FAMILY PRACTICE

Before the
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4600 King Street, Suite 4E
Alexandria, Virginia 22302-1213

Date: December 27, 1996

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. Before the Federal Communications Commission (Commission) is a MOTION FOR EMERGENCY INJUNCTIVE STAY (MOTION), filed pursuant to 47 CFR 1.41, , 1.42, 1.43, 1.44(e), 1.45(d) and 1.298(a) of the Commission's Rules. Opposition comments have been submitted by the Deputy Attorney General's Office of the Department of Justice for the State of Delaware (Delaware).1/

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2. Pursuant to the authority given by the Commission under the Report and Order in General Docket No. 87-112 2/, the Region-20 Public Safety Planning Committee was created to address the future communications needs and concerns of the PSRS users for Region-20. The obligations of that Committee included the submission to the Commission of a Region-20 Public Safety Radio Communications Plan (Region-20 Plan) 3/ and establishment of a Region-20 Public Safety Review Committee (Committee) to oversee its implementation.

3. This Committee, representing the PSRS/governmental constituents for Region-20 and pursuant to 47 CFR 1.45(b), hereby timely submits the following **REPLY COMMENTS** in response to the opposition to the **MOTION** requesting the Commission invoke an EMERGENCY INJUNCTIVE STAY on Delaware's statewide radio station license authorizations, WPIQ-290, WPIQ-294 & WPIZ-596, prohibiting further construction and implementation of said radio system. This injunction shall continue until such time that Delaware files and is granted an Effective Radiated Power (ERP)/Antenna Height reduction modification of all transmitter sites of said license authorizations, so as to completely comply with 47 CFR 90.621(g) of the Commission's rules, the "three (3) mile outside of boundary" 40 dBu contour limitation requirements of the Region-28 Plan (GN Docket No. 89-573), and adjacent region concurrence requirements pursuant to the Report and Orders in GN Docket No. 87-112, GN Docket No. 89-573 and GN Docket No. 90-7.

II.

REPLY COMMENTS

4. The original MOTION requested the Commission invoke an EMERGENCY INJUNCTIVE STAY on Delaware's 821-824/866-869 MHz radio station licenses for having failed to comply with the federal statute 47 CFR 90.621(g), and Report & Orders in GN Docket No. 87-112, GN Docket No. 89-573 and GN Docket No. 90-7.4/ In opposition comments filed in response to this MOTION, Delaware fails to dispute this Committee's continued assertion that it submitted applications and was granted radio station licenses in violation of federal statutes and Commission Orders.

5. In the MOTION, this Committee submitted detailed engineering documentation, based upon Commission licensing data, which clearly showed that Delaware violated Commission rules and regulations.5/ Delaware, in their opposition filing, could have submitted similar engineering documentation (see paragraph 8 infra) to refute this Committee's assertions, but did not!

6. In its opposition, Delaware appears to indirectly admit to the asserted federal statute violations. They state that "[e]ver if there were any actual interference in eastern Maryland caused by Delaware's 800 System, relief 'at the expense of similar harm caused another' does not warrant a stay".6/

7. In addition to the violations noted in paragraph 4 supra, Delaware violated 47 CFR 90.205 of the Commission's rules. 47 CFR 90.205 states that "Applicants for licenses must request and use no more power than the actual power necessary for satisfactory operations."7/

8. When Delaware initially submitted its applications to the Region-28 Plan Update Committee for review and approval, it was required to submit detailed engineering documentation showing that the proposed ERP from each transmitter site would not generate 40 dBu F(95,95) signal strength contours exceeding the "three (3) mile outside of boundary" rule of the Region-28 Plan.8/ Pursuant to 47 CFR 90.205, Delaware should only have applied for that ERP necessary to comply with the "three (3) mile outside of boundary" rule.

9. If the 40 dBu contours were to have extended beyond the three mile out of boundary limitation (i.e. three miles beyond the Delaware State line into Maryland), either under initial license applications or subsequent license modifications to increase authorized ERPs because post construction and testing revealed inefficiencies in system coverage, then Delaware was supposed to have obtained written adjacent Region-20 approval for such encroachment before such license applications were submitted for Commission authorization, not after! And as was stated in the

MOTION, inter-regional concurrence for Delaware's 40 dBu contours to encroach into Region-20 was not properly obtained prior to the Commission issuance of Delaware's current license grants.9/

10. Delaware's argument that because future Commission corrective relief is available should harmful interference be caused to Region-20 10/ is unrealistic. With no disrespect to the overburdened Compliance and Information Bureau, the Commission's record in the handling such cases is less than adequate and often require multiple years to resolve.

III.

CONCLUSION

11. Pursuant to 47 CFR 1.45(b), this Committee hereby submits these **REPLY COMMENTS**.


12. Delaware's opposition comments focus strictly on the legality of the **MOTION**. However, Delaware has failed to demonstrate that it did not violate federal statutes and Commission Orders as asserted in the **MOTION** and reiterated in these **REPLY COMMENTS**.

13. Commission failure to adopt the **MOTION** will further make it nearly impossible for Region-20 to comply with the Commission's demands, in the recent adopted GN Docket No. 90-7/GN Docket No. 89-573 Order, to effectuate mutually acceptable inter-regional

coordination procedures. 11/ This is because the Order discriminates and unilaterally requires Region-20 to provide protection to Region-28, but Region-28 does not need to reciprocate and Delaware & Region-28 are allowed to maintain the status quo.

14. For the reasons set forth in the MOTION and these REPLY COMMENTS, prompt Commission grant of this MOTION is appreciated by this Committee and Region-20, and is in the public interest.

Respectfully submitted,



Dr. Michael C. Trahos, D.O., NCE, CET
Chairman - Region-20 Legislative/
Regulatory Affairs Committee

Mr. Stephen H. Souder
Chairman - Region-20 Regional Plan
Review Committee

IV.

FOOTNOTES

- 1/ OPPOSITION, GN Docket No. 89-573, State of Delaware Department of Justice, December 18, 1996.
- 2/ REPORT AND ORDER, General Docket No. 87-112, FCC 87-359, November 24, 1987, Paragraph 4.
- 3/ WASHINGTON, D.C. METROPOLITAN AREA - REGION 20, General Docket No. 90-7, DA 90-28, January 17, 1990.
- 4/ MOTION FOR EMERGENCY INJUNCTIVE STAY, GN Docket No. 89-573, Region-20 Public Safety Review Committee, December 12, 1996, Paragraph 3.
- 5/ Ibid., at Attachment 1.
- 6/ Ibid., Footnote 1, at Page 11.
- 7/ 47 CFR 90.205, 10-1-95 Edition.
- 8/ ORDER, General Docket No. 89-573, Philadelphia Metropolitan Area Public Safety Plan, December 16, 1993, Region-28 Plan, Appendix F-1, Page 38.
- 9/ Ibid., Footnote 4 at Paragraph 10.
- 10/ Ibid., Footnote 1 at Page 5.
- 11/ ORDER, DA 96-2066, GN Docket Nos. 90-7 and 89-573, December 9, 1996, Paragraph 11.